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Intelligence Debate Moves to Hill

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Washington's intelligence scandal is moving this week from the glaring exposes of the front page to the more deliberative setting of congressional drafting rooms.

But the underlying conflicts that already have surfaced between the Ford administration and its legislative critics on intelligence issues continue to flare along constitutional, political and moral grounds.

The disagreements are heightened by complaints of congressional leaks of classified information, by the controversy over release of names of CIA officials and, most dramatically, by the recent assassination in Athens of U.S. intelligence officer Richard S. Welch—who has become the official martyr in the debate.

On Wednesday the process of legislative review will begin formally with public hearings on the various intelligence reform proposals to be conducted by the Senate Government Operations Committee under the chairmanship of Sen. Abraham A. Ribicoff (D-Conn.).

The list of witnesses reflects all major institutional positions on the subject of intelligence reform ranging from outgoing CIA Director William E. Colby and his predecessor, Richard M. Helms, to Sen. Frank Church (D-Idaho), chairman of the Senate intelligence committee, which is being held accountable for many of the agency's current political woes, and Rep. Michael Harrington (D-Mass.).

The most visible points of collision between the executive and its legislative critics are on the issues of control of covert operations and congressional access to classified information.

The White House is expected to take a determined stand against informing congressional oversight committees of operations prior to their execution—a position that some lawmakers may well regard as a step backward from the present law. Currently the administration is required to brief six congressional committees on covert operations in a "timely" manner.

Presidential advisers argue that there are both constitutional and practical grounds for opposing prior notification to Congress of covert operations.

The constitutional objection is that informing Congress of an executive decision before it is implemented violates the separation of power clause of the Constitution, which arrogates to the President the conduct of foreign policy.

As to the practical objection:

"The committees are sieves," one official proclaimed. "The President would be irresponsible if he were not to make a presumption that any information will get out if it goes up (to Capitol Hill)."

Church favors a system of prior notification to a new oversight committee that would respect the President's right to go ahead with covert actions abroad even over its privately expressed dissent. "Congress would not have a veto," Church explained recently. "We would not usurp the role of the President as final arbiter of foreign policy."

If a pattern were to develop in which the President consistently dismissed or ignored the advice of Congress, in Church's view, "then the committee would have the remedy always available to Congress. It would control the purse strings and could pull up on them if it saw fit."

Much of the controversy which has engulfed the CIA over the past several years has sprung from covert operations, such as those in Chile, and more recently the funding of favored tribal factions in the Angola civil war and of favored Christian Democratic politicians in the Italian party spectrum.

Some of the witnesses at the impending Senate Government Operations hearings will call for the abolition of covert action in foreign policy.

At the same time the CIA will ask Congress for tougher penalties to impose on employees and former employees of the agency, such as Philip Agee, who disclose classified information. Church has expressed concern, however, about the dangers of drawing up legislation so restrictive that it could be used to "conceal unlawful activity or other wrongdoing by the agency."

There is considerable apprehension, going beyond Church, in Congress that in its zeal to tighten controls over the leakage of secrets into the public domain the administration may seek the enactment of a law tantamount to the official secrets act, comparable to the British statute, which draws a heavy armor of criminal liability around government secrets.

In making the case for stronger executive and legislative controls over the nation's governmental secrets one presidential adviser recently cited what he called the "Coventry precedent."

He referred to the decision of Winston Churchill in 1940 to sacrifice the medieval town of Coventry and its popul ace to

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